

REMARKS

Claims 1-21 and 26-28 are pending in this application and have been rejected in the Office Action. Claims 26-28 have been added by the above amendment. Support for these claims can be found in the original claims, as well as paragraph [0038] of the original specification.

Examiner Interview

Applicant thanks the Examiner for the courtesies extended in the telephonic interview of April 10, 2007, where the undersigned and the Examiner discussed the prior art of record and the pending claims. No agreement was reached in the interview.

Rejection under 35 U.S.C. § 102

The Office has rejected claims 1-20 under 35 U.S.C. § 102(b) as being anticipated by Wilson et al. (U.S. Patent Application No. 2002/0099327) for the reasons noted on pages 2-4 of the Office Action.

Applicant respectfully traverses this rejection for the reasons of record, namely, that just because Wilson et al. describe a multi-lumen catheter that is “capable of being used as a tunneler” does not mean that the skilled artisan would understand that it is used as a tunneler. Indeed, the skilled artisan would understand that it is not used as a tunneler since Wilson et al. specifically disclose in several instances that the catheter 12 is pulled through a tunnel that has

already been created. So something else, other than the catheter 12, has already created the tunnel and the catheter 12 is not being used as a tunneler.

Further, new claim 26 contains the limitation that the tunneler contains a rigid tunneler shaft. The Office has not shown that the catheter 12 contains a rigid tunneler shaft. And is unlikely that the Office could show that the catheter 12 of Wilson et al. contains such a feature since first, it is not a tunneler and therefore cannot contain a tunneler shaft and, second, the skilled artisan would understand that catheters are not themselves rigid.

Moreover, new claim 28 contains the limitation that the plurality of tip shaft members can be retained in a lumen of a catheter by using a protrusion on the exterior of the tip shaft member. The Office has not shown that the catheter 12 contains such a feature. And is unlikely that the Office could show that the catheter 12 of Wilson et al. contains such a feature since how can catheter contain a protrusion which retains the catheter in a lumen (which is already part of the catheter)? In other words, how can the catheter be retained in itself?

Thus, the Office has not shown that Wilson et al. teach every limitation in the rejected claims. Accordingly, Applicant respectfully requests withdrawal of this ground of rejection.

Rejection under 35 U.S.C. § 103

The Office has rejected claim 21 under 35 U.S.C. § 103 as being unpatentable over Imran (U.S. Patent No. 5964796) in view of Vardi et al. (WO 02/076333) for the reasons noted on pages 4-5. Applicant continues to traverse this rejection for the reasons submitted in the Amendment of March 28, 2007. And for the same reasons, it is unlikely that the Office can substantiate that their combination teaches or suggests the limitations in new claims 26-28.

Thus, neither Imran nor Vardi et al., either alone or in combination, disclose or suggest each and every element of the claimed invention. Accordingly, Applicant respectfully requests withdrawal of this ground of rejection.

CONCLUSION

For the above reasons, as well as those of record, Applicant respectfully requests the Office to withdraw the pending grounds of rejection and allow the pending claims.

If there is any fee due in connection with the filing of this Amendment, including a fee for any extension of time not accounted for above, please charge the fee to our Deposit Account No. 50-0843.

Respectfully Submitted,

By 
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